



BoS Agenda
10-22-07
(6)

Town of Acton
472 Main Street
Acton, MA 01720

Telephone (978) 264-9606
Fax (978) 264-9630

Interdepartmental Communication

October 19, 2007

To: Board of Selectmen
From: John Murray
Subject: Dog leash policy notification

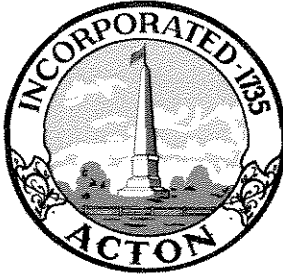
Board Members:

The hearing for a Dog Leash Policy at NARA Park was advertised in the legal section of the Beacon on October 11, 2007. NARA Park is used by many more people than the few users that we have heard from to-date, and I have a concern that the majority of park users may not be aware that the Board is considering a permanent policy for leashing dogs at NARA, and may wish to be heard.

If the Board would like to continue the October 22 hearing to its November 5 meeting, I would direct staff to post notification by more commonly-viewed means such as the Town web site, government cable television channels, signs physically posted by the park entrances and by any other means that the Board determines.

Regards,

John



(6)

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9608
Fax (978) 264-9630

Cathy Fochtman
Recreation Director

Date: October 3, 2007
To: John Murray
From: Cathy Fochtman, Recreation Director
RE: Dog Policy at NARA Park

The Recreation Department instituted a dog leashing policy at NARA, following a March 2007 Board of Selectmen decision to enforce it for the summer months. Signs are on display and the NARA groundskeeper informs patrons that we have a leashing policy. The majority of the feedback to the Recreation Department has been positive: the park has been cleaner and patrons are pleased that there is one facility in Town where dogs are required to be leashed.

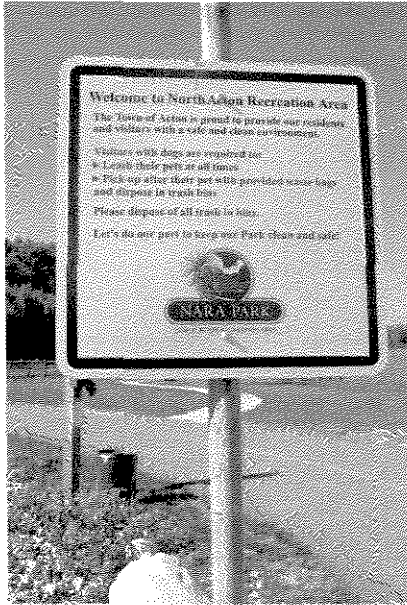
The Recreation Commission has had a number of discussions over the summer regarding the dog leashing policy. The discussions included a review of rules other communities follow. It was reported that most communities introduce either restricted hours or areas.

Resident Glenn Rifkin attended the August Recreation Commission meeting to state his opinion that some off-leash hours should be introduced. His suggestion was discussed at length. The Recreation Commission considered the demographics of the site users. They concluded that the mixed use of the site from dawn to dusk with walking path, playground, ballfields, beach, bath house, picnic areas, sports teams on the ballfield leaves such narrow opportunity for offleash hours that it was deemed impractical.

The Recreation Commission voted 4 – 0 at their October 2 meeting to recommend to the Board of Selectmen that dogs continue be leashed at all times at NARA Park.

Enclosure: NARA Dog Policy Signage

NARA Dog Policy Signage



Welcome to North Acton Recreation Area

The Town of Acton is proud to provide our residents and visitors with a safe and clean environment.

Visitors with dogs are required to:

- Leash their pets at all times
- Pick up after their pet with provided waste bags and dispose in trash bins

Please dispose of all trash in bins.

Let's do our part to keep our Park clean and safe!

(2 signs, each at entry to perimeter walkway, to the right and to the left of the bath house)



(3 signs, posted throughout Park)



TOWN OF ACTON
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Cathy Fochtman
Recreation Director

Date: October 18, 2007
To: John Murray
From: Cathy Fochtman, Recreation Director
RE: Dog Control Issues at Great Hill

The Recreation Commission took up the issue of dog control at Great Hill ballfield as a citizen's concern at their Sept. 4 Recreation Commission meeting. The President of Acton Boxborough Youth Soccer forwarded concerns by soccer parents as well as requests for more conspicuous signage regarding dog control. The following recommendations were voted and approved (4:0) for consideration by the Board of Selectmen:

- Post signage at the pond and at the field entrance at Great Hill stating "Children Play Here Please Pick Up After Your Dog"
- Send a dog owner responsibility sheet to registered dog owners stating the Town bylaw regarding dog control, accompanying dog license renewals at the beginning of the calendar year
- Consider designating an alternate area where dogs can roam freely. A suggested area discussed was the landfill at the Town Transfer Station

The attached letter outlines the concerns expressed by the ABYS organization.

Enclosure: Letter from ABYS President, Seth Tower



Acton-Boxboro Youth Soccer

I offer a couple of suggestions that could help the situation. First, signage needs to become more abundant and informative. Let's inform the dog owners that, no matter how well behaved, their dogs should be "on leash" when in the presence of children, especially children playing sports. The roaming dogs don't know that the children are playing with other children and not looking to play with them.

Of course dog owners should pick up after their animals. The signs should reflect this. Receptacles should be placed strategically for disposal of what's been collected. Perhaps a supply of "doggy bags" could also be placed strategically for those owners who have forgotten.

There is a "doggy church" which is held at Great Hill many Sunday mornings. A town representative should reach out to this constituency and let them know of our concerns and possible consequences should the situation not improve. They should be encouraged to police themselves, and to spread the word to other dog owners who use the park.

One mother of ABYS players recently wrote the following e-mail to me:

Literally, every time one of my children is on a soccer field in town, they step in or fall in dog poop. I feel this is totally unacceptable. If owners cannot properly clean up after their dogs, then dogs should be banned from fields where children are playing. Please advise me on whether I should forward this complaint elsewhere.

*Thank you for your attention in this matter.
Ann-Marie Sweeney*

NARA Park is a vast expanse compared to the confines of Great Hill. Great Hill now seems overwhelmed. A concerted effort to bring the situation to the dog owner community is needed. I own and operate a graphic design firm, and should the town be interested, I would volunteer our services to design some of the signage mentioned above.

Thank you for your attention to this matter.

Regards,

Seth B. Tower

Seth B. Tower
President

JUDITH O. MACDONALD
415 Main Street
Acton, Ma 01720

BOS.
Mail
10/19/07
(6)

October 4, 2007

The Board of Selectmen
Acton, Massachusetts 01720

Gentlemen:


The Acton Arboretum is a place of beauty and a wonderful addition to our Town. That being said, I have a concern I would like to share with all of you.

On two occasions over the past six months my small leashed dog has been attacked by a large unleashed dog. This has been a terrifying experience for both my dog and myself. I was fearful of being bitten by these dogs.

The Arboretum is a public park to be enjoyed by all, young and old and their pets. I understand a temporary leash law is in effect at Nara Park. With the growing population of Acton, I believe the time is now to enact a leash law in all public places. No dog can be considered "under control at all times" unless it is leashed.

Thank you for your consideration in this matter.

Sincerely,


Judith MacDonald



Acton-Boxboro Youth Soccer



October, 10, 2007

Ms. Catherine Fochtman
Recreation Director
Town of Acton
472 Main St.
Acton, MA 01720

Dear Cathy,

Pursuant to our recent conversations and correspondence concerning the canine situation at Great Hill, and on behalf of ABYS, I would like to bring several issues to the attention of the Recreation Commission and the Board of Selectmen, and offer some thoughts on possible solutions to the problem that persists there.

It's been my experience, over the last 6 years of coaching and watching my children play, that Great Hill has never been without dog related issues. However, since NARA Park has banned "off leash" activities, Great Hill's dog problems have become even more of a challenge. These problems break down into three areas: control, hygiene, and safety.

From an animal control standpoint, many dog owners show no common courtesy for players or spectators using the park. Dogs routinely race across the marked fields during games and practices, chasing balls and sticks, or worse, other dogs. Many of these animals are soaking wet just out of the pond. This is a frightening situation to many of our players and parents who are not accustomed to large animals, or just plain afraid of dogs.

The hygiene issue can not be dismissed as isolated incidences. It has been so bad that many Tuesday nights this past summer I brought a shovel with me to practice. Other coaches have used orange cones to mark the feces. In spite of everyone's best efforts to avoid it, inevitably parents are cleaning their children's cleats in the parking lot before heading home.

The safety issue has an element beyond animal control. Frequently, holes are dug in the fields by dogs. These holes are potentially more dangerous than the "litter" left behind. The holes can have serious consequences to a player who steps into one unaware and rolls an ankle, or worse. These holes have also been marked with cones to warn the players.

I am a dog owner myself. I know that there are a great many responsible dog owners in Acton. I do believe that many dog owners feel their animals are under their control when "off leash." However, roaming animals and their waste should not be present on the playing fields where children are playing.

***P.O. Box 745, Acton, MA 01720
www.abys.org***



Acton-Boxboro Youth Soccer

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Thank you for your attention to this matter.

Regards,

Seth B. Tower

Seth B. Tower
President



FILE COPY

(6)

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Town Manager's Office

October 4, 2007

BEACON PUBLICATIONS

By E-mail

**Please place the notice below in the Acton Beacon
Legal Ad section.**

ATTENTION RESIDENTS AND USERS OF NARA PARK

The Acton Board of Selectmen will be discussing the continuance of the Dog Leashing Policy at NARA Park that has been in place since March 07. The Board of Selectmen will discuss this at their October 22, 2007 at 8:15 P.M. in the Francis Faulkner Hearing Room at Town Hall.

Acton Board of Selectmen

June 4, 2007

accelerate the process for TIPS training. Selectman Rosenzweig stated that setting out a pitcher of beer makes it hard to monitor who has what and how much. The concern in this incident is about over serving not under age. Selectman Berry asked how many bartenders they employ and if they ever had any problems with drinking in parking lot. They employ 6 bartenders and all the new employees are trained in TIPS. They do have cameras in all of the parking lots. It is a small bar. Chairman Hunter stated the Board is very serious about this drinking and driving. Do they have a written policy and should it be updated and passed to the Town Manager to file at Town Hall? The police Chief said no license is approved without a written policy. The Chairman will pull the license if there is a continued problem. Selectman Rosenzweig asked if there was enough food and water served at the bar. Selectman Rosenzweig moves to state any further violation may result in taking the license for a period of time from Overtime Bar. The warning was issued, Selectman Berry seconded. ⑥

OVERSIGHT MEETING, COUNCIL ON AGING

Steve Baran is the Chair of the Council and Gena Manalan is the Vice Chair. They are here tonight to respond to the request for needs assessment survey and Senior Center Feasibility Study. There are projected to be 3,380 seniors in Acton by 2010. That is a 60 % increase since opening the center in the mid 90's. Selectman Berry asked if the funds from the senior center are approximately 95 % from town and 5% from Friends of the Council on Aging. Selectman Berry suggested that the seniors look to the state for funding as CPC has recreation funds eligible. Mr. Baran estimates that approximately 500 people come 3 times a week or more to join in activities in the center. Selectman Knibbe is going to join Dore' as liaison and is excited to know more about the center and its operations. Selectman Rosenzweig complimented the diverse programming being offered. Mr. Baran explained to the public that in the beginning the center was a gift from Roy Smith, and no feasibility study was done. Now the senior community is able to participate in the needs list and goals for funding. Selectman Magee congratulates the center for being at full capacity. Unfortunately, the demand is outstripping the capacity. He stated you will definitely need to look at location. Terra Friedrichs liked communities investing in the seniors and wished to include a sensitivity analysis study about how to keep seniors here in the Town of Acton.

DOG LEASH POLICY, NARA PARK

The Chairman asked the Town Manager to speak about the results of the temporary leash law test at NARA Park. The manager said that the overall reaction from the town was that people were in general happy with the cleanliness and for the most part the safety. The Chairman stated concerns with dogs running into the water since it is spring fed. There have been a few times the coli form count has been up in the warm weather. The crews also watch for geese and try to keep clean the surrounding area. Chairman Hunter has had people asking about making special hours that dogs could run. Selectman Magee stated the York, Maine policy sent to the Selectmen to review from the animal control officer seems to be a fair policy that appears to work in other communities. Regulations in the policy change depending on time of day and the season. The town should not have to spend substantial monies to pick up feces. Bill Riken, a citizen who is not in favor of the leash law, is surprised to hear that droppings and free roaming dogs at certain times of day is a significant problem. This began as a problem of dogs bothering children and now has become an issue of feces. He feels clean up is seasonal. In winter no one thinks it is an issue. Terra Friedrichs can only speak about the Arboretum and she likes polite dogs. A recent citizen to Acton was upset one night around 7-8:00pm getting video taped with his dog. He did go to police. He believes it is on the person to be responsible for clean up, not the town's. Issue tickets for poop issue, not a leash law. A leash won't keep feces away or make polite dogs. Chairman Hunter explained that the other parks in town do not have leash laws. Bob Lessard stated that the new rules were not just pulled out of the blue. Last July 2006 the Selectmen were asked to consider a leash law. In July 2006 there was also a big spread on leash law at the park in the two local papers, Beacon Communications and Acton Weekly. The main reason for implementing a leash law according to Mr. Lessard is to protect kids. Terra Friedrichs finds that a leash law that is too restrictive is too urban. She likes the ticket idea. Rick Cowan works cleaning at NARA the clean up has dropped off it was very severe after winter. Dog bags are free. Selectman Magee says this is not a new problem and probably not less severe in the summer, it just disappears sooner due to more biological activity in the warmer months. Everything in the park eventually leaches into the pond. He believes it should go back to the Recreation Department to study. They were more severe with the restrictions last year when they were asked to look at the problem. The problem needs to be explored again with all the parties at the table. It is time to recommend again with a

broader demographic study. Leave the temporary plan at NARA as it is until the new recommendation has been made. Selectman Berry agrees and would like to support Recreation Department in their recommendation and support the Health Department's request to keep dogs on a leash at NARA in summer. He is in favor of supporting the process; it has been public from the very beginning. Now NARA has programs running 7:30am-9. Selectman Knibbe supports having a place in town where people can go that either don't like being accosted by dogs or are afraid of dogs. Selectman Rosenzweig is in favor of the mixed policy which other communities have incorporated and that we need a fine based ticketing system. Selectman Magee moves to direct the Recreation Department to revisit a dog policy. Selectman Knibbe would like to narrow the motion to just NARA and limit the hours. Selectman Magee is comfortable with just NARA. Motion passed as amended. Recreation will come back in the fall to the Board with recommendations.

BRUCE FREEMAN RAIL TRAIL, ROUTE 2A CROSSING ALTERNATIVES

Mr. Bartl of the Planning Department introduced Christer Ericsson and Jim Johnson of GPI, Inc, who gave a slide presentation of three conceptual designs for the Route 2A Crossing. GPI, Inc. the firm working on Acton's behalf will present on the 25% design submission to the state. On Tuesday the 12th of June there will be a public meeting to present the design ideas and following that meeting there is expected approval in September of 2007. Chairman Hunter clarified that funds for construction come from the state and funds for the design come from the town. The Rail Trail starts at the back of Acton Indoor Sports and continues to the Carlisle town line. After discussion, it was decided three versions will be carried forward. Selectman Magee wondered why the island version did not make it to the final phase. Safety and space make it a less desirable option. Selectman Magee noted that this is a mapped NHESP priority habitat area with turtles and that this will be an issue with the drop-in bridge option. Selectman Rosenzweig stated safety is priority and she favors the bridge option. Is there enough height for the bridge option? It would be good to look at changing the grade in the road; with no rail ties the options are better on raising the grade of the road where it currently dips to meet the railroad grade. Selectman Knibbe wanted assurance that all legal issues have been cleared. There will be some easement taken at Rex Lumber. It is important to have a project that the state feels is a good enough project to fund and support. One million dollars a mile for a Rail Trail is a very expensive project for them to fund. They are looking for support and input for the Public meeting next Tuesday. It is on the 2010 transportation improvement Plan.

MAIN STREET/HAYWARD ROAD SIGNALIZATION STUDY

Bill Mullin and Jon Petersen of Traffic and Neighborhood Safety (TANS) gave a slide presentation for safety solutions to the Main Street/Hayward area. There was an approved study in 2001. That study indicated a high cost traffic signal and expansion of the road with an additional 6 lights going in down Main Street. Tans has made a list of goals for a residential neighborhood which include neighborhood impact, the cost benefit analysis of implemented changes and what the unintended negative consequences might be, while still maintaining a residential look. Changes in traffic speed, queue length, time of day and delays will be studied seasonally. Chairman Hunter stated that most safety complaints come from Hayward road. All of the Board agreed that the study was old. There were no monies to fund the results of the study. Selectman Rosenzweig wanted to defend the study but there is a need to look anew and include the neighborhood. Selectman Magee is sympathetic to no light and given there is such new developments in traffic engineering (traffic calming) you might find alternatives. Selectman Magee suggests that TAN is looking for more than a simple study. The scope should be defined. Are we really getting into a corridor study. Chairman Hunter added that preliminary studies are being looked at by the Engineering Department. The Town Manager added that staff is waiting for direction from the Board. Do we need a larger scope? Selectman Rosenzweig wanted a consultant to do public outreach in the area. Selectman Knibbe asked to choose which problems you want to solve. Terra Friedrichs asked to include residents in any outreach. Selectman Magee stated the debate begs the question that we want to redo the corridor study. Not just picking on Hayward Road as the singular bad spot. The Town Manager added that if you paid for the corridor study then you could not fund implementation of the study. The Board agreed that a conceptual study should be done and brought back to the Board for consideration.

COMMUNITY PRESERVATION ACT (CPA) DISCUSSION WITH MARC DRAISEN, DIRECTOR, METROPOLITAN AREA PLANNING COUNCIL (MAPC)

(6)

Christine Joyce

FILE COPY

From: Catherine Fochtman
Sent: Friday, June 01, 2007 12:03 PM
To: Don Johnson; John Murray
Cc: Christine Joyce; Maryjane Kenney; Tom Tidman; Frank Widmayer; 'kenltack@comcast.net'; Dean Charter
Subject: RE: NARA dogs

Don and John,

The signage for dog leashing at NARA has been in place for a month. My observation is that most dog owners who are new to the park are following the posted signs. I have also observed regular patrons that arrive on foot with their dogs off leash. Our 30-hr per week groundskeeper, Rick Cowley, does a good job of informing visitors about the dog policy when he sees visitors that are not complying.

Our other observation is that there is greater adherence to the "pick up after your dog" policy, which is also posted on the dog signage. Rick has reported that there is far less waste to clean up.

As the NARA Summer Youth program approaches, it is of particular interest to me that the dog leashing rule be enforced during its hours of operation. My onsite director, Jon Grant, reported to me last summer that there were incidents of children being frightened by dogs off leash. Since the program is in operation from 7:30 am – 5:30pm from June 25 – August 29, I believe it is prudent to keep the rule in force during its duration.

*Cathy Fochtman
Recreation Director
Town of Acton
472 Main St.
Acton, MA 01720
978-264-9608 ext. 0
978-264-9630 fax*

From: Maryjane Kenney
Sent: Friday, May 18, 2007 3:35 PM
To: Tom Tidman; Catherine Fochtman; Frank Widmayer; 'kenltack@comcast.net'; Dean Charter
Cc: Don Johnson; John Murray; Christine Joyce
Subject: FW: NARA dogs

Per request of the Don/John please send any comments you may have about this issue before the June 4th BOS meeting. Thanks Maryjane

From: Dore' Hunter
Sent: Tuesday, May 08, 2007 4:33 PM
To: grifkin@comcast.net
Cc: Board of Selectmen; Manager Department
Subject: Re: NARA dogs

Mr. & Mrs. Rifkin,

Thank you for your email.

The issue of control of free running dogs has been debated off and on in Acton for many years, and was the

6/11/2007

subject of two rather intense Town Meetings when a "lease law" was placed on the books, and then taken off at the following Meeting. The uneasy compromise between folks disturbed by free running dogs became a town wide By-Law that required dog owners have effective voice control of their dogs. However, I still occasionally see dogs about in Acton out of sight of their owners. The Town has some public places where dog owners do exercise their pets, NARA Park is but one such place. A public place should be equally accommodating to all comers, dog owners, runners, walkers, people out with small children, etc.

As I explained to you last night we have received complaints about dogs acting in threatening manner toward small children, and received some recommendations from those folks charged with oversight of recreational areas in Town in this regard. I don't think it is an issue of frequency, it should not happen at all. There are some folks in Town, other than the gentleman that you referred to in your email, who are not in favor of free dogs around them. On the other hand there are dog owners, perhaps like yourself, who are passionate about their dogs and love to see them race about. It seemed to the Board, as it was previously constituted, that perhaps the best way to address the concerns of those folks who are uneasy sharing the outdoors with apparently free running dogs, and perhaps their litter, was to preclude free running dogs in one place in Town and see how that worked out. This matter was discussed several times in open public meetings of the Board of Selectmen, along with all the other issues that the Board hears. I regret that the Board deliberations are not better covered by the press, they are, of course, televised and we are very pleased when folks attend the meetings.

As I told you last night it seems to me to make sense to see how things work out for a while. Rather than engage in "order, counter order, confusion", as the saying goes, i.e. that it would be better to ride with the current situation long enough to see if those folks who would be more comfortable without the dogs running free increase their park usage without such. Obviously you are a dog owner who wants to let a dog(s) run free, that is temporarily at least prohibited at NARA Park. You seemed to indicate that you were not familiar with the area behind the South Acton Fire/EMS Station which I understand is a favorite location for dogs to be let free to run, so that is an alternative, there are probably others.

Part of my responsibility as the Board Chairman is to manage the Board's Agenda. We are dealing with some serious issues and are going to be working our way through other unusual business. We had an Agenda last night that was intentionally shortened to allow more time to be spent on a selected issue. I nevertheless allowed Citizens Concerns to expand into a mini-debate. I anticipate that the next meeting (21 May) we will be beginning our meeting at 6 p.m. in Executive Session which will be followed by a regular meeting at 7 p.m. There is some possibility, based on the last time we did this in regard to the issue involved, that we will go back into Executive Session at the end of the regular meeting. And I expect the regular meeting Agenda to be quite full. In recent months the Board of Selectmen has not completed meetings on occasion until 12:30 a.m. and 1:00 a.m., long after the audience left, at least in part due to the length of the prior business. We run a real risk of not functioning well in the late hours, and it is not fair to the Board members who hold day jobs. One of the things I promised to the new Board was that I would keep the meeting lengths under control. We still did not end last night until about 11:15 p.m.

You did suggest a reduction in the hours during which dogs would have to be on leash at NARA. There is some possibility that such an arrangement might work, and we could discuss that when we have some idea how the current complete ban works out. Accordingly I have tentatively indicated to the Town Manager that I intend to put a further discussion of the extent of the dogs running free ban at NARA Park on the Agenda for the 4 June Board of Selectmen Meeting, and expect to hold the discussion to 30 minutes. We will ask staff to report how the ban has worked over what will then have been about a months time, and solicit observations as to what effect, if any, it has had on the non-dog owner use of the facility.

You are, of course, free to attend the meeting and speak to that Agenda item. If there are folks with a differing viewpoint present I will try and give equal time to both sides. It is always helpful for the Board to receive written statements in advance. If any such statements are received in Town Hall by mid-day on the Friday before a Selectmen's meeting they can be included in our weekend packet and read by the Selectmen before the meeting.

Regards,
Dore' Hunter
Chairman of the Board of Selectman & VSO, Town of Acton, MA
Telephone: 978-263-0882
Email: dorehunter@aol.com

6/11/2007

BOARD OF SELECTMEN & SEWER COMMISSIONERS'

MINUTES

6
FILE COPY

Francis Faulkner Meeting Room Town Hall

May 7, 2007

7:00 PM

OPERATIONAL MINUTE – The Town Manager spoke about implementation of land purchases and easements approved at Town Meeting, 468 Main St, the Groener Property and the Magee Property.

CITIZENS' CONCERNS

Glenn Rifkin spoke about his concerns as a dog owner to discover unannounced signs at NARA implying penalties for unleashed dogs. There had been no notice or reason for the signage to be posted. Blanket regulations without citizen input concern him, as to question of fairness and compromise. Such as unleashed hours or areas of free roam or fenced in areas. Chairman Hunter corrected him as to the many previous sessions where leash laws have been discussed. NARA is test area, not intended for infinite time. Chairman Hunter further informed Mr. Rifkin that after a reasonable test period the leash law will be reevaluated. But children's safety and ability to play undisturbed is a priority. Another citizen asked the board if children are able to play in the school play grounds. The board was unsure of the school rules and did not have jurisdiction over the areas questioned. Further it did not free the town from providing play areas free from dogs for the population that was bothered by dogs. Bob Lessard stated that dogs are predators and should not roam free. Chairman Hunter stated the Board will address the Gentleman's reasonable concerns. A few other citizens got up to announce that dogs are not bothersome at NARA and rebuttals were exchanged. Chairman Hunter stated that there will be no debate here. At that point the chairman ended the discussion on dog issues, noting the full agenda. He asked people to please send emails and at the end of the test period there would be opportunity to have an open public discussion at the meeting.

Mary Michelman made the announcement that Charlotte Sagoff had died. She lived in Acton from the 70's through the 90's. She was head of ACES, the founder of Acton Earth Day and Acton food co-op. Chairman Hunter commented that he has had many interactions in committees with her and will miss her and her contributions.

Will Tuffin repeated his concerns on the Town Counsel's opinions and advice regarding cell towers. He would like some rules imposed by the Board about rebuttal and date of hearings. Chairman Hunter stated there would be many testimonials for what towns like Concord and Sudbury do. The Board does not want to hear constant complaints about counsel unless there is some substantial reason. If there is such a reason a person should write and make a formal complaint to the Board and to the Attorney General. The Board does not see need to commit to procedural steps that are not necessary. Selectman Magee stated that there is now a committee to discuss these issues. Let us see what was submitted and then we can respond.

PUBLIC HEARINGS AND APPOINTMENTS

56 POWDER MILL ROAD CAR DEALER'S LICENSE - CONTINUED

The applicant for 56 Powder Mill Road car dealer's license has requested a continuance as it is meeting with the Board of Appeals at the same time. The license is a very complicated special permit. Attorney Richard Nylen was present to represent both 56 and 60 Powder Mill. Chairman Hunter is bothered that all cars driven by employees are for sale. There are more cars on lot than claimed. Mr. Nylen will provide names and cars that are employees. Selectman Magee noted he drove by the site and was upset that the # 56 boulders are gone, the cars are parked in back too close to the river, and a dumpster has been placed in the protected area. Selectmen Rosenzweig would like to see a new site plan clarifying where the display cars and employee cars will actually be parked. She also stated that the exit is not parking space. The hearing will be continued to May 21st at 7:30 PM.

NOTE TO BOS - 2/7/07
THIS TOPIC WAS TO HAVE BEEN ON THE 2/12 AGENDA.

New Dog Policy/Law for Recommendation to the Board of Selectmen

6
FILE COPY

February 9, 2007

Submitted by: Tom Tidman, Natural Resources Director
Cathy Fochtman, Recreation Director

Acton citizens and visitors, young and old, must be kept safe, healthy and free from danger, distress, and nuisance. But we also want the greatest freedom of ownership and movement of dogs for responsible owners. The purpose of animal control is to encourage the safe, humane treatment of animals, to establish and foster responsible animal ownership, to effectively control the spread of contagious disease, and to maintain a safe environment for both animals and people.

Due to the increased frequency of dog complaints, we are seeking to implement a new dog leash policy/laws which will help work towards the education of irresponsible dog owners and reduce the number of problem dog related incidents. It is not feasible for the Town to prevent dog issues ranging from nuisance to dog bites 100% of the time. However, with a new policy in place we look forward to seeing more dog owners taking responsibility.

Acton Recreation will be offering dog training classes through their programs beginning in the spring of 2007 to help educate dog owners; additional training classes are available through Community Education.

The Town is actively working on an alternative area, "a dog park", where dogs can have the freedom to run and swim without a leash.

After a careful study of dog leash laws in nearby towns, statewide, and cross country, our recommendations for implementing a new dog leash policy and/or leash law follows, (with the exception of working dogs, guide dogs, hearing ear dog; and on Conservation Lands where posted).

1. It is accepted that a dog secured by a leash or under voice control in the hands of a responsible owner can generally be regarded as unlikely to cause concern. However, accidents can happen and in relation, the risk of a lapse or oversight is not acceptable. Control by a leash is a reasonable alternative to prohibition on Town owned property.
 - **Recommendation:** Any person owning, keeping or being responsible for a dog shall not allow nor permit said dog to run at large. Dog owners and dog sitters must have their dog under control at all times. All dogs must be on a leash on all Town owned properties, unless otherwise posted, for example: where posted Conservation properties will be deemed as appropriate to be "under voice control"; these properties will be clearly posted. A leash that extends no more than 6 feet in length and is sufficient to hold the dog is recommended to keep

dogs under their owner's control at all times. Conservation Lands will be reviewed by the Land Steward Committee for "voice control" locations. Recommendations will be made to the Conservation Commission.

2. One of the main areas of concern with respect to children's interaction with dogs is that dogs are generally instantly attracted to children. This coupled with the pack instincts of adult dogs can lead to instances of biting and other injurious behavior. In addition, the mulched surfaces of playgrounds means that feces left by dogs can be overlooked, and children playing on recreational sporting fields are likely to come into physical contact with feces left by dogs.
 - **Recommendation:** Dogs are not permitted on active recreational playing fields, playgrounds or tennis courts.
3. It shall be the responsibility of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his/her dog on any Town owned land. There are many dog owners who are responsible and clean up after their dog, however, there are too many owners who leave dog feces on park and Conservation Land trails.
 - **Recommendation:** Dog owners must pick up any feces left by their dog. Dog owners must always carry a leash and a "doggy do" bag. These bags are provided for free at NARA Park, the Acton Arboretum, and Great Hill.
4. The Recreation Department takes pro-active and preventative measures to ensure a safe and clean swimming area. Town staff maintains the NARA beach area by cleaning, raking, and picking up various animal feces (i.e. Canada geese, sea gulls, and dogs) every day the beach is open for swimming to prevent contamination and increased bacteria levels. During the winter, string is placed across the pond to prevent Canada geese and seagulls from making NARA their home. The water at NARA Park is tested at a minimum of once weekly during the bathing season. During heavy rains, water washes into the pond via the beach and surrounding pond shoreline, which can cause bacterial contamination. Increased summer water temperatures without rain also elevate bacteria levels. When an unacceptable count is received, the beach is closed and tested daily until the bacteria count returns to an acceptable level.
 - **Recommendation:** Dogs are not permitted on beaches or swimming areas any time of the year, unless posted otherwise.
5. Many towns are now taking an initiative to implement a Bylaw for vicious dogs due to the increase in awareness of dog attacks by known breeds which have pursued, bitten, attacked or injured without provocation and seriously injured numerous individuals, particularly children, and have killed other numerous dogs. Many of these attacks have occurred in public places.

- **Recommendation:** A new Bylaw be considered for known vicious dog breeds: American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Brazilian Fila, Dogo Argentino and Japanese Tosa. A “vicious dog” means, any dog that has bitten or attacked a human being or animal; any dog owned or harbored, primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

See Addendum 1: Town of Amesbury Vicious Dog Bylaw. A recently adopted Bylaw due to increased public awareness regarding vicious dog breed incidents.

6. In order to effectively encourage dog responsibility, we recommend a fine schedule for violations on Town owned properties, enforced by Animal Control and local police.

- **Recommendation:**

A. Fine for not carrying a leash

B. Fine for not having dog under control

C. Fine for failure to pick-up dog feces

A-B-C fine recommendation fees: \$25 first offense, \$35 second offense, and subsequent offenses in any twelve month period: \$50 or choose to take a dog obedience class.

D. Fine recommendation: A penalty for an owner of a dog involved in a serious attack will be determined by the Board of Selectmen and/or attorney.

7. Signage encourages education and responsibility. The Recreation and Conservation Departments would like to place appropriate signage at Recreation and Conservation areas.

- **Recommendation:**

The Recreation and Conservation Departments to place appropriate signage enforcing leash policy compliance at Recreation and Conservation areas.

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ARTICLE 39 – REGULATION OF VICIOUS DOGS**39.1 Declaration of purpose**

39.1.1 It is hereby declared that vicious dogs have become a serious and widespread threat to the safety and welfare of the citizens of the Town of Amesbury, in that vicious dogs have in recent years assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed numerous dogs. Many of these attacks have occurred in public places.

39.1.2 The number and severity of these attacks is also attributable to the failure of owners to register, confine and properly control vicious dogs.

39.1.3 It is further declared that the owning, keeping or harboring of vicious dogs is a nuisance.

39.1.4 It is further declared that because of the danger posed to the public, health, safety and welfare by vicious dogs this By-Law constitutes an emergency measure providing for the immediate preservation of the public health, safety and welfare of the citizens of the Town of Amesbury.

39.2 Definitions: As used in sections 1 through 8, inclusive, of this By-Law, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) “vicious Dog” means:

- (1) Any dog that when unprovoked inflicts bites or attacks a human being or other animals, either on public or private property, or in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or in any public grounds or places; or
- (2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- (3) Any dog which attacks a human being or domestic animal without provocation; or
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- (5) Any Dog not licensed according to town law.

“vicious dog” shall include the breed of dog known as the American Staffordshire Pit Bull, Pit Bull Terrier, Bull Terrier or the American Pit Bull.

(b) “Enclosure” means a fence or structure of at least six feet (6) in height, suitable to prevent the entry of young children, and confine a vicious dog. “Enclosure” also means other measures which may be taken by the owner or keeper, such as tethering of the vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.

(c) “Dog Officer” means any person designed by the Town Municipal Council, and may be a Police Officer or Constable.

(d) “Impounded” means taken into the custody of the public pound.

(e) "person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

(f) "muzzle" means a device constructed of strong soft material or a metal muzzle. Such muzzle may not interfere with the vision or respiration of any dog, nor shall it cause any injury to the dog. It must prevent the dog from biting any animal or person.

39.3 Requirements for Registration

39.3.1 Every dog three months or older shall be licensed pursuant to G.L. c. 140 § 137. No vicious dog shall be licensed by the Town of Amesbury for licensing period commencing after January 1987 unless the owner or keeper of such vicious dog shall meet the following requirements:

(a) The owner or keeper shall present to the town clerk or other licensing authority proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought. The policy shall contain a provision requiring the Town to be named additional insured for the sole purpose of the Town Clerk or other licensing authority to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

(b) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section 3(1) (a) during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.

(c) The owner or keeper shall have a licensing number assigned to any vicious dog, or such other identification number as the town clerk or other licensing authority shall determine. That number shall be noted on the city or town licensing files for such vicious dog.

(d) The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway or roadway.

(e) The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have a fenced enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.

(f) The owner or keeper shall notify the licensing authority within twenty-four (24) hours if a vicious dog is unconfined, has attacked another animal or has attacked a human, or has died or has been sold or given away. If the vicious dog has been sold or given away the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new dog owner of the vicious dog.

(g) The dog officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provision of this By-Law, and such dog officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

39.4 Control of Vicious Dogs

39.4.1 All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

39.4.2 It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or outside of the enclosure, unless necessary for the owner to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with commands or directions of the dog officer with respects to the vicious dog, or to comply with provisions of this By-Law. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

39.5 Purpose or intent – Harboring

39.5.1 No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.

39.5.2 No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the Town any vicious dog.

39.6 Vicious Dog – Seizure

In the event that a dog officer or law enforcement agent has cause to believe that a vicious dog is being harbored or cared for in violation of this By-Law, the dog officer or law enforcement agent may order the seizure and impoundment of the vicious dog pending trial.

39.7 Action for Damages – Destruction of Offending – Vicious Dog

39.7.1 If any vicious dog shall kill or wound, or assist in killing or wounding any sheep, lamb, cattle, horse, hog, swine, fowl or other domestic animal, belonging to or in the possession of any person, or shall attack, assault, bite or otherwise injure any person, or shall attack, assault, bite or otherwise injure any person, or assist in attacking, assaulting, biting or otherwise injuring any person while out of or within the enclosure, whether or not such vicious dog escaped without fault of the owner or keeper, the owner or keeper shall be liable to the person aggrieved for all damaged sustained, pursuant to G.L. c. 140, s155.

39.7.2 Upon attack or assault by a vicious dog, the dog officer of the Town is hereby empowered to confiscate and destroy vicious dog after a hearing as provided by Section 8 of this By-Law, if the conduct of such vicious dog or its owner or keeper constituted a violation of the provisions of this By-Law.

39.8 Penalties for Violation

39.8.1 Any vicious dog, except those ruled vicious for violation of Section 2 (a) (5) solely:

(a) Whose owner or keeper does not secure the liability insurance coverage required in accordance with Section 3 (1) (a) of this By-Law, or

(b) Which is not maintained on property with an enclosure; or

(c) Which shall be outside of the dwelling of the owner or keeper, or outside of an enclosure except as provided in Section 4(2).

May be confiscated by a Dog Officer and be destroyed in expeditious and humane manner after a hearing as provided by Section 8 of this By-Law. In addition, the owner or keeper shall pay a ten dollar (\$10.00) fine for each offense.

39.8.2 If any vicious dog shall kill, wound or assist in killing or wounding any domestic animal, described in Section 7 (1) of this By-Law, the owner or keeper of said dog shall pay a twenty-five dollar (\$25.00) fine, and for each subsequent violation pay a fine of fifty (\$50.00) dollars. The dog officer is empowered to confiscate and destroy said vicious dog, after a hearing as provided in Section 8 of this By-Law.

39.8.3 If any vicious dog shall attack, assault, wound, bite or otherwise injure or kill a person, the owner or keeper of said dog shall pay a twenty-five (\$25.00) fine, and for each subsequent violation pay a fine of fifty (\$50.00) dollars. The dog officer is empowered to confiscate and destroy said vicious dog, after a hearing as provided in Section 8 of this By-Law.

39.8.4 All fines paid pursuant to this Section shall be paid to the Town of Amesbury.

39.8.5 No dog shall be destroyed within ten (10) days of being impounded:

39.8.6 If the owner or keeper of an animal impounded for an alleged violation of Sections 3 to 7 inclusive of this By-Law believes that there has not been a violation of such Sections, the owner or keeper may file a complaint in the District Court. The impounded dog shall not be destroyed pending resolution of the owner's or keeper's complaint if the complaint shall have been filed ten (10) days of impoundment of such dog. If the court shall find that there shall not have been a violation of Sections 3 to 7 inclusive of this By-Law, such dog may be released to the custody of the owner or keeper upon payment to the poundkeeper of the expense of keeping such dog, as determined in accordance with G.L. c.140, s157.

39.9 Severability

If any provision of this By-Law or application thereof to any person or circumstances, is held invalid, the validity of the remainder of the By-Law and the application of such provisions to other persons and circumstances shall not be affected thereby.